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FEDERAL COMMUNICATIONS COMMISSION
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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of:

Price Cap Performance Review for
Local Exchange Carriers

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CC Docket No. 94-1

COMMENTS OF
COMPETITIVE TELECOMMUNICATIONS ASSOCIATION

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Summary

The current LEC price cap plan is riddled with gaps between theory and reality:

- The plan assumes that access services are provided in a typical consumer market, and that lower access rates will automatically produce end user benefits. In reality, access is an intermediate good provided in a market with one predominant buyer -- AT&T. This unique characteristic creates powerful incentives for suppliers to grant undue preferences, and requires that strong non-discrimination requirements for all access elements be enforced if lower access rates are to produce lasting consumer benefits.
- The plan assumes that access competition will help control discrimination, while at the same time justifying considerable LEC pricing flexibility. In reality, access competition is both de minimis (amounting to less than one percent of the total access market) and asymmetrical (being limited for the foreseeable future to dedicated transport, which is used predominantly by AT&T). Consequently, access competition increases LEC incentives to use their already extensive pricing flexibility inefficiently, by extending discriminatory discounts to AT&T and over-allocating overhead to captive, smaller IXC's. This is true for transport and tandem switching today, and will be equally true for other access elements in the future if permitted by the rules.
- The plan assumes existing transport rates are rational and that existing pricing constraints obviate the need for a permanent rate relationship between different transport offerings. In reality, the rate relationships between DS3, DS1, and tandem-

switched transport already are unrelated to underlying costs, and the price cap rules virtually guarantee that this disconnect will become ever wider.

- The plan assumes that tandem switching is physically separate from local switching, and therefore that the costs of switches used to provide tandem functionality should be borne predominantly by the small IXC's that use tandem switching. In reality, tandem switching generally is performed by integrated machines that also provide local switching, and intraLATA toll switching functionalities.

Because of these shortcomings, the existing LEC price cap plan assures that access rates will soon become entirely divorced from economic reality. This grave infirmity in the current rules threatens to undermine each and every goal of price cap regulation:

- *The rules discourage efficiency.* The price cap plan creates incentives for LECs to over-invest in transmission capacity, rather than deploying resources to upgrade switching and expand intelligent network capabilities. Similarly, by implicitly allowing LECs to use non-uniform overhead loadings -- and therefore to allocate overhead disproportionately to customers of monopoly access services -- the rules eliminate the incentive to reduce overhead that would flow from a uniform overhead loading requirement.

- *The rules impede innovation.* Smaller IXC's historically have introduced many new products and services before their larger competitors. However, by forcing smaller carriers to bear uneconomic access rates, the rules will artificially constrain the

resources these companies can devote to future research, development, and network upgrades.

- *The rules restrain economic growth.* By permitting above-cost pricing of monopoly access services, the current plan limits the expansion potential of smaller IXCs, which are the largest creators of new jobs in the communications industry. The rules further impede growth by depriving consumers of full and fair price competition in the long distance market.

- *The rules frustrate deployment of the national information infrastructure.* Smaller IXCs are a fertile source of innovation. Inflated access rates, however, will prevent these carriers from participating fully in realizing the vision of an interconnected, feature-rich network of networks. Without such participation, the NII will reflect only the vision of the largest IXCs and LECs, inevitably impoverishing the range of potential capabilities and offerings.

Against this background, the Commission should take a fresh, hard look at its price cap rules, and recognize that they must be changed if the key goals of price cap regulation are to be realized. Specifically, the Commission should amend its rules in two respects in order to preserve the opportunity for fair long distance competition:

- First, the Commission should require a permanent, reasonable relationship between the rates for DS3, DS1, and tandem-switched transport offerings. This relationship should be based strictly on differences in capacity, offset by multiplexing costs, after taking into account individual copper/fiber ratios.
- Second, the Commission should place all switching functions in the same basket and expeditiously establish a separate tandem switching rate using

the proven costing methodology adopted in the ONA pricing proceeding (CC Docket No. 92-91).

In addition, the Commission should not adopt its proposal to group LEC services according to the perceived degree of competition. Such an approach would institutionalize discrimination against smaller IXC's, ensuring that they will be made continually worse off as rates for the competitive access services used predominantly by AT&T are deregulated.

By taking these steps, the Commission can close the gap between theory and reality. Modifying the LEC price cap plan as summarized above and discussed more fully herein will preclude unreasonable discrimination, promote efficiency, foster innovation, enhance economic growth, and contribute to the deployment of the NII, thereby achieving the fundamental objectives of price cap regulation.

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COMMENTS OF
COMPETITIVE TELECOMMUNICATIONS ASSOCIATION

The Competitive Telecommunications Association ("CompTel"), by its attorneys, respectfully submits its comments regarding the Notice of Proposed Rulemaking in the above-captioned docket.¹ For the reasons discussed herein, CompTel urges the Commission to reform the price cap plan in a manner that guards against unreasonable discrimination by the LECs in providing access to interexchange carriers.

I. INTRODUCTION

In reviewing the LEC price cap plan, the Commission must address two categories of issues. The Notice focuses solely on the first category, which encompasses such matters as the level of the productivity offset, definition of exogenous costs, delineation of baskets and bands and formula for capping the carrier common line charge, and relates primarily to the *absolute* level of access rates. The

¹ FCC No. 94-10 (released Feb. 16, 1994) ("Notice").

second category -- about which the Notice is silent -- concerns the *relative* level of access rates charged to different IXC's.

Both categories of issues are important. Nonetheless, the second group -- pertaining to potential discrimination among IXC's -- has the greatest impact on competition in the provision of services to end users. If the price cap plan allows or invites such discrimination, then the absolute level of access charges becomes relatively unimportant. Weakened competition in the retail long distance market would reduce the incentive for the largest IXC to pass through access cost savings, and diminish the ability of smaller IXC's to invest in the development and deployment of innovative, advanced services.

On the other hand, if the price cap plan precludes unreasonable discrimination, then consumers will reap the full benefits of lower access rates because long distance competition will compel the flow-through of such reductions. Moreover, all segments of the long distance industry will experience efficient investment incentives that will expedite the deployment of valuable new network capabilities and promote economic growth.

Because non-discriminatory, cost-based access charges are essential to the viability of smaller IXC's, CompTel will focus these comments on aspects of the plan dealing with relative access rates.² In Section II of these comments, CompTel will lay out the factual and analytical framework within which the Commission should consider

² CompTel may address absolute access rate issues in its reply comments.

price cap reform issues. In Section III, CompTel will suggest changes to the price cap rules that are necessary for fair long distance competition, and therefore to ensure that consumers in fact enjoy "lower telecommunications prices and innovative services"³ Finally, in Section IV, CompTel will explain that it would be imprudent to group LEC access services according to the perceived degree of competition.

II. REFORM OF LEC PRICE CAP REGULATION MUST PROCEED WITHIN THE PROPER ANALYTICAL AND FACTUAL FRAMEWORK.

The outcome of this proceeding will directly affect the future of competition in the long distance market and the incentive and ability of IXC's to invest in new technologies. The LECs derive approximately 25 billion dollars each year from providing interstate access services. Moreover, access costs are the single largest expense faced by IXC's, comprising between 40 and 50 percent of total costs. Consequently, price cap rules that encourage or even tolerate discrimination would injure consumers and frustrate achievement of important infrastructure-related goals.

Against this background, the Commission's review of the LEC price cap plan must be based on a proper understanding of how access services are provided and how the access and long distance markets operate. In other proceedings dealing with these issues -- such as the Transport and Expanded Interconnection dockets⁴ -- the Commission has based pricing rules on assumptions that have turned out to be

³ Notice at para. 33.

⁴ CC Docket Nos. 91-213 and 91-141 (Switched), respectively.

unsupported by the facts. As a result, these rules -- which have become an integral part of the price cap framework -- do not effectively constrain discrimination.

To ensure that the instant proceeding yields more appropriate policies, CompTel urges the Commission to act consistently with the following economic and technical realities:

First, access is an intermediate good with highly concentrated demand.

Decreases in access rates will not benefit consumers unless passed through by IXC's. Because AT&T has monopsony power in the access market -- accounting for over 60 percent of demand -- preferential rates extended to AT&T will not, in the long term, result in lower long distance rates for consumers.

Second, access competition is not significantly more prevalent now than it was when price cap regulation was adopted in 1990. Almost a decade after the LECs began warning of the threat of bypass and seeking additional pricing flexibility, competitive access providers have captured less than one percent of the total interstate access market (roughly 200 million dollars out of a total market of over 25 billion dollars). Moreover, the Commission's current Expanded Interconnection rules, which seek to remove certain barriers to access competition, only benefit users of through-routed (direct-trunked) transport -- AT&T and, in some areas, MCI and Sprint. For the foreseeable future, tandem-switched transport (used by smaller IXC's) will remain completely within the control of the LECs. The Commission must therefore resist the inevitable entreaties to transform this proceeding into an instrument of deregulation.

Further deregulation is unwarranted, and will remain so until sustainable, effective access alternatives exist for all interexchange carriers.

Third, the LECs already enjoy substantial pricing flexibility. Not only is further deregulation unjustified at this time, but the LECs already enjoy far greater pricing flexibility than AT&T had during a similar stage in the development of long distance competition. The price cap plan, zone density pricing authority, and the ability to offer term and volume discounts under certain circumstances,⁵ give the LECs ample ability to respond to nascent competition in the access market.

Fourth, the LECs will use whatever flexibility they are given to discriminate in favor of AT&T. Given the flexibility to do so, the LECs will limit rate decreases as narrowly as possible, targeting them to AT&T alone even though declining costs warrant across-the-board reductions under a cost-based approach. Indeed, such discrimination abounds in the recently filed 1994 annual access tariffs. For example:

- BellSouth's 1994 annual access tariff filing proposes to reduce DS3 mileage rates (for service to AT&T) by 21 percent while holding DS1 and tandem-switched rates (for service to other IXC's) level. This practice results in implied overcharges to smaller IXC's of \$4.2 million.
- Proposed transport rates by Southwestern Bell and Pacific Bell would result in implied overcharges to small IXC's of \$2.3 million and \$600,000, respectively.

⁵ CompTel has sought reconsideration of the volume discount authority granted in the Switched Expanded Interconnection Order, explaining that such discounts for shared facilities are not supported by economics or sound policy. See CompTel Petition for Reconsideration, CC Docket No. 91-141 (Switched Phase I), filed October 15, 1993. CompTel urges the Commission promptly to grant this Petition.

- U S West would increase short-distance tandem-switched rates (for services used almost exclusively by small IXCs) by 23-44 percent, while lowering DS3 rates by 4 percent and long-haul tandem-switched rates (for service used mostly by AT&T) by almost 6 percent.⁶

Fifth, there is no technical or economic basis for existing discriminatory transport rates. There is a single inter-office network, and all transport offerings -- DS3, DS1, and tandem-switched -- share that network. Consequently, the only justification for pricing a DS1 circuit (used by smaller IXCs) at more than 1/28 the cost of a DS3 circuit is that DS1 circuits must be derived through multiplexing.⁷ The Commission has never sought information on LEC multiplexing costs, but evidence

⁶ See CompTel Petition to Reject Or, In The Alternative, To Suspend and Investigate 2 Annual Access Tariffs, filed April 26, 1994.

⁷ In sworn testimony to the Georgia PSC, BellSouth recently responded as follows to a request to "identify every difference in equipment and facilities used by Southern Bell to provision a DS-1 and a DS-3":

The typical interoffice fiber link consists of high-grade single mode fiber that under ideal conditions may carry signals 25-30 miles without the use of repeaters. The fiber cable is terminated at both ends into fiber terminals which convert DS-3 optical signals to electrical signals. If a DS-1 is required, a three to one multiplexer is placed on the electrical side of the fiber terminal. This device then converts the DS-3 signal into DS-1 signals. Therefore, the difference between the provisioning of DS-3 and a DS-1 is the 3:1 multiplexer required for DS-1 service.

Southern Bell Response to IAC Interrogatory No. 11, GPSC Docket No. 4817-U (Feb. 10, 1994). Southern Bell's witness, Jerry D. Hendrix, confirmed in his oral testimony that this response "is correct just as is stated," and reiterated that "calls for the DS1 service and the DS3 service are carried on a DS3 level backbone." Testimony of Jerry D. Hendrix, GPSC Docket No. 4817-U (March 2, 1994), Transcript at 85 ("Hendrix Testimony").

See also Comments of BellSouth, CC Docket No. 91-213, filed Nov. 22, 1991, at 15 and n.18; Comments of Bell Atlantic, CC Docket No. 91-213, filed Nov. 22, 1991 at A-4; Comments of NYNEX, CC Docket No. 91-213, filed Nov. 22, 1991, at 25. But see Transport Order, 7 FCC Rcd 7006 (¶¶ 47-48) (rejecting argument that DS1 and DS3 facilities are the same). Of course, some DS1s are still furnished with copper facilities. Nonetheless, the LECs use fiber for all new interoffice facilities, and on a going-forward basis, these are the relevant costs. See ONA Tariffs of Bell Operating Companies, CC Docket No. 92-91, FCC 93-532 (Dec. 15, 1993), at ¶ 5.

before the FCC and in state proceedings establishes that such costs are far lower than the BOCs' DS1 rates would indicate, and that DS1 pricing reflects disproportionately high overhead loadings.⁸

Sixth, existing tandem switching rates include indefensible overhead loadings.

The tandem switching function does not generate the bulk of the costs of switches used for performing this function. Contrary to the apparent assumption of the Commission in the Transport docket,⁹ tandem switches are not stand-alone machines dedicated to this purpose. Rather, the substantial majority of access tandems are collocated in

⁸ Sprint recently submitted data to the Commission from its United local operating companies showing that "the correct [DS3/DS1] cost relationships are 14.5:1 for a one-mile entrance facility, and 23.1:1 for 10 miles of interoffice transport, resulting in an overall ratio of 20.3:1." See Sprint Petition for Reconsideration, CC Docket No. 91-213, filed April 4, 1994, at 3. Sprint goes on to explain:

There is no reason to believe the cost relationships shown in those submissions are any different for the RBOCs and GTE. Sprint has often challenged those carriers to provide data on this record as to their own DS3:DS1 cost relationships, but none of these carriers has done so. Under the circumstances, the most logical inference is that they cannot rebut the data provided by the United companies.

Id. at 3 n.5.

Sprint's point is bolstered by the testimony of Southern Bell witness Hendrix before the Georgia PSC. Mr. Hendrix testified that BellSouth prices transport services to "maximize" the contribution from access customers, and that "I should not be restricted in pricing my service to reflect what the cost is for DS3." In addition, Mr. Hendrix also testified as follows:

Q. So you're saying that it's Bell's position that the differences in pricing between these two options [DS3 and DS1] is unrelated to the cost of providing the service?

A. As long as I cover cost, yes.

This response plainly reveals that BellSouth prices access services to extend discounts to AT&T and recover most or all overhead from smaller IXCs, which have no competitive alternatives.

⁹ See Transport Rate Structure and Pricing, CC Docket No. 91-213, FCC 91-9 (released Jan. 31, 1994), at ¶ 13 ("Second Transport Order").

switches that also perform end office functions, as well as concentrating and switching LEC exchange and intraLATA toll traffic.¹⁰ Consequently, any rational allocation of costs to tandem switching must acknowledge the multiple functions of the associated equipment and assure a uniform allocation of overhead among these functions. Once again, however, evidence adduced in state proceedings shows indefensibly high overhead loadings on tandem switching.¹¹

Seventh, the threat of discrimination is not limited to transport and tandem switching. Discriminatory pricing arose first with respect to transport elements because of expiration of the equal charge rule and adoption of a rate structure that grants excessive and unjustified pricing flexibility. Extension of such flexibility to other access elements undoubtedly would yield equally pernicious and unwarranted discrimination.

III. THE COMMISSION SHOULD MODIFY THE PRICE CAP RULES IN ORDER TO PRESERVE THE OPPORTUNITY FOR FAIR LONG DISTANCE COMPETITION AND ACHIEVE THE FUNDAMENTAL OBJECTIVES OF PRICE CAP REGULATION.

The laudable goals of the LEC price cap plan are to promote efficiency and innovation, facilitate economic growth, and further deployment of the national

¹⁰ In five BellSouth states where information on tandem deployment has been made available, 24 of 29 switches that provide tandem switching functionalities are also used as end office switches.

¹¹ BellSouth has conceded before the Georgia PSC that its FCC-tariffed tandem switching charge reflects an overhead loading factor greater than 5:1. Hendrix Testimony at 101.

information infrastructure.¹² In two key respects, however -- the failure to require a permanent, reasonable rate relationship between DS3, DS1, and tandem-switched transport offerings and to base tandem switching rates on readily discernible costs -- the current rules are at odds with these goals.¹³

A. The Current Price Cap Plan Assures an Ever-Widening Gap Between Rates and Economic Reality.

1. Transport

The LECs use their inter-office transport network, which is shared by all IXC's, to provide three different offerings: DS3 dedicated circuits (which are potentially competitive), DS1 dedicated circuits (which may be subject to competition in some areas), and tandem-switched circuits (which are monopoly services). AT&T is by far the largest user of DS3 capacity. In urban areas, smaller IXC's may have enough traffic to justify use of one or more DS1's, but not enough -- even were they to aggregate their demand and purchase capacity jointly -- to require the capacity of a DS3. In suburban and rural areas, competitive IXC's generally must use tandem-switched transport.

Under the current price cap rules, all three types of transport circuits are in the trunking basket. The First Transport Order directed the LECs to set initial DS1 and

¹² Notice at paras. 2, 5.

¹³ These aspects of the price cap rules were adopted in the Second Transport Order. CompTel has filed a Petition for Reconsideration of that Order. See CompTel Petition for Reconsideration, CC Docket No. 91-213, filed April 4, 1994 ("CompTel Transport Petition for Reconsideration").

DS3 rates based on equivalent special access services, with DS3 circuits being priced no less than 9.6 times the rate for a DS1. The Commission arrived at this ratio without examining actual costs, and did not investigate whether the underlying special access rates were just and reasonable.¹⁴ CompTel urges the Commission, in the context of this comprehensive review of the LEC price cap plan, to recognize that the existing rules must be modified to preserve the opportunity for fair long distance competition.

As an initial matter, the current relationship between DS1 and DS3 rates is unrelated to cost and blatantly discriminatory. As noted in Section II, above, LEC testimony in state transport proceedings establishes that DS1 and DS3 circuits are generally provided over the exact same physical facilities, with the only cost difference arising from use of a 3:1 multiplexer to derive the individual DS1 circuits. Accordingly, there is an objective basis for establishing a cost relationship between DS1 and DS3 circuits, and any difference between DS1 and DS3 rates beyond the multiplexing costs is necessarily due to discriminatory overhead loadings. That is, the LECs place a proportionately greater amount of overhead costs on non-competitive services (that will be purchased by smaller IXC's) and a proportionately lesser amount on potentially competitive services (that will be purchased by AT&T).¹⁵

¹⁴ In the Second Transport Order, the Commission decided that the pricing bands on these transport services would prevent anticompetitive conduct while promoting efficient pricing by the LECs. Second Transport Order at para. 33. Consequently, it stated that the price cap rules "obviate the need for any permanent fixed relationships between the rates for specific services." *Id.*

¹⁵ See examples cited in footnote 5, *supra*.

Moreover, under the current price cap rules, such discrimination will only worsen over time. The service bands allow the LECs to raise DS1 and tandem-switched transport rates by five and two percent a year, respectively, while lowering DS3 rates by five percent -- or even more in high density zones. Undeniably, such rate relationships are entirely divorced from economic reality.

2. Tandem Switching

The current price cap rules, as modified by the Second Transport Order, place tandem switching within the tandem-switched transport service category in the trunking basket, rather than putting it in the switching basket.¹⁶ This treatment of the tandem switching function was strongly opposed by a large cross-section of LECs and IXC's, and supported in whole only by AT&T and U S West. It is based on the Commission's mistaken belief that tandem and local switches are physically separate, whereas in reality tandem and local switching functions generally are performed within a single, integrated machine. As a result of the erroneous assumption regarding network architecture, the LECs are free to develop tandem switching rates essentially without regard for switching costs.

Compounding this mistake, the current rules for pricing tandem switching are based on the development of a speculative tandem "revenue requirement." The flexibility inherent in this approach effectively licenses the LECs to allocate grossly

¹⁶ Second Transport Order at para. 13.

excessive overhead amounts to tandem switching -- and, as explained in Section II, they are clearly doing so.¹⁷ Because tandem switching is used predominantly by smaller IXCs, such discriminatory, non-cost based pricing threatens to seriously distort competition in the long distance market.

B. By Assuring an Ever-Widening Gap Between Rates and Costs, the Current Price Cap Rules Will Undermine Every Goal of the Price Cap Plan.

The current price cap plan is plainly inconsistent with the fundamental efficiency, innovation, economic growth, and NII-related objectives of price cap regulation:

The rules will promote inefficiency. Because the price cap rules allow the LECs to set prices without regard to underlying cost relationships, they create irrational and inefficient purchasing and investment incentives. At a 9.6 to 1 ratio, for example, an IXC has an incentive to purchase DS3 circuits when it has enough traffic to fill only 35.7 percent of the capacity. At a 6.4 to 1 ratio, which the price cap plan would permit shortly, the crossover point would require enough traffic to fill only 25 percent of the DS3 capacity. Such artificially inflated demand for DS3 circuits would encourage the LECs to over-invest in transmission capacity, diverting capital that could more efficiently be used to upgrade switches and introduce intelligent network functionalities. In addition, because an unreasonably low ratio between DS1 and DS3

¹⁷ See fn. 10, *supra*.

rates allows the LECs to over-allocate overhead to non-competitive services, it creates no incentive to reduce total overhead. *In contrast, a reasonable rate relationship between different transport circuit types would promote efficiency by creating proper investment incentives and -- by enforcing uniform overhead loadings -- generating strong incentives for the LECs to enhance efficiency by reducing overhead.*

- The rules will diminish innovation. Smaller IXC's historically have been highly innovative, often introducing new products and services well before their larger competitors. However, because these companies will be forced to pay unreasonably and increasingly high rates for transport and tandem-switching, they will have fewer resources to devote to research, development, and deployment of new services.

Similarly, as noted above, LECs will have improper incentives to over-invest in transmission capacity instead of new network functionalities. *In contrast, a reasonable relationship among the rates for different transport offerings, and cost-based tandem switching rates, would create proper investment incentives for both IXC's and LECs and allow both types of carriers to maximize development of valuable new offerings.*

- The rules will hamper economic growth. Small businesses are increasingly the engine of economic growth, creating more jobs than their larger counterparts and, by stimulating competition, reducing prices to consumers. If small IXC's are forced to pay unreasonable rates for major cost elements of their services, their growth will be artificially stymied. Competition will be diminished, jobs will be lost, and consumers will be injured. These effects will be particularly evident in rural and suburban areas, where smaller IXC's must utilize tandem-switched transport. *In*

contrast, cost-based tandem switching rates and a reasonable relationship between the rates for different transport offerings would give small IXC's a fair chance to compete and grow, maintain the pressure for all IXC's to offer lower rates that stimulate demand generally, and secure the benefits of long distance competition for consumers in rural and suburban America.

- The rules will restrain deployment of the NII. The NII is envisioned as an interactive, high bandwidth network of networks. Its successful deployment must not be entrusted to the vision of the large few -- AT&T, the biggest LECs, and the biggest cable companies, for example -- or the range of capabilities and offerings will be impoverished. Nonetheless, access pricing rules that artificially hinder the growth of smaller IXC's will deter investment and therefore prevent a fertile source of innovation from contributing fully to development of the NII. *In contrast, rules that assure cost-based, non-discriminatory access rates will preserve the ability of smaller IXC's to help realize the vision of the NII.*

C. The Commission Should Reform the LEC Price Cap Plan in Two Key Respects.

In light of the foregoing, the Commission should make two critical changes to the LEC price cap plan:

First, the Commission should amend the price cap rules to require a permanent, cost-based relationship between DS3 and DS1 rates. The Commission should also

require the LECs to derive tandem-switched transport rates based on DS1 and DS3 rates, taking into account each LEC's copper/fiber ratio.¹⁸

Second, the price cap rules should treat tandem switching as part of an overall switching basket, and the Commission should expeditiously direct the LECs to develop a tandem switching rate based on costs identified using the model for ONA pricing in Docket No. 92-91.¹⁹ Use of this model will generate cost-based rates and assure consistency and rationality in the pricing of switching functions.

Taken together, these modifications to the LEC price cap plan will preserve an opportunity for fair competition in the long distance market and advance each and every goal of price cap regulation. They are plainly in the public interest.

IV. THE AT&T PRICE CAP EXPERIENCE SHOULD NOT BE A MODEL FOR LEC PRICE CAP REFORM (Baseline Issue 2 and Transition Issue 3).

The Notice suggests that it might be appropriate to revise the LEC price cap plan by grouping "services subject to similar competitive pressures in the same

¹⁸ An alternative but inferior solution would be to use a 28:1 rate relationship to establish a DS1 floor based on the DS3 rate level, and to use this rate level, in conjunction with the updated copper fiber data, to establish the tandem-switched transport floor. If competition developed for DS1 or tandem-switched transport, the lower floors would allow competitive responses by the LECs while assuring rates do not fall below cost. See CompTel Transport Petition for Reconsideration at 18-19.

¹⁹ See CompTel Transport Petition for Reconsideration, at 7:

The Commission has already drafted the blueprint for establishing the price of an unbundled switching function in CC Docket No. 92-91 regarding the Open Network Architecture tariffs of the RBOCs. In that proceeding, the Commission required the RBOCs to base rates for switching BSEs on forward-looking (or prospective) direct costs plus reasonable, uniform overheads. The Commission rigorously reviewed the RBOCs' cost estimates and rejected excessive direct costs and overhead loadings.

baskets," as the Commission did with respect to AT&T.²⁰ CompTel urges the Commission not to group LEC services in baskets defined by the perceived degree of competition. Although this approach would be superficially symmetrical with the AT&T price cap model, the Commission must recognize that AT&T and the LECs operate in entirely different markets. Accordingly, the Commission's experience with deregulating AT&T is not a valid precedent for relaxing regulation of the LECs.

AT&T operates in a retail market with widely dispersed demand. In that setting, the Commission's policy of grouping more competitive services separate from less competitive offerings theoretically allowed the Commission to deregulate high-end business services without creating risks for residential and small business customers.

Pursuing the same practice in the access market would gravely affect long distance competition. To the extent effective competition develops for access services, that competition will be to serve AT&T, which has half again as much demand as all its competitors put together. Isolating more competitive from less competitive access services consequently would license the LECs to discriminate, lowering costs for AT&T while raising (either absolutely or in relative terms) costs for its smaller rivals. Such discrimination, as discussed in Section II above, is unsupported by underlying cost differences and inconsistent with the long-term interests of consumers of long distance services.²¹

²⁰ Notice at para. 41; see also *id.* at para. 37.

²¹ For these reasons, CompTel also urges the Commission not to "rebalance" LEC baskets in response to changes in future market conditions. See Transition Issue 3, Notice at para. 97.

The more appropriate model for LEC price cap reform is to assure that all IXC's share in the efficiencies generated by new technology and the emergence of competition for AT&T's access business. If AT&T alone enjoys a reduction in its access costs -- even though the decrease reflects cost changes associated with a shared interoffice network used by all IXC's -- then consumers will not benefit from access competition. AT&T would either keep such cost reductions to itself or, more likely, pass a portion of them through in the short term in order to undercut competition. In either event, consumers will enjoy no long-term benefits, competition will be diminished, investment incentives will be undermined, and economic growth opportunities will be forsaken. The Commission can avoid this scenario by keeping potentially competitive (DS3), less competitive (DS1), and monopoly (tandem-switched transport) services in the same basket, and adopting appropriate pricing rules as discussed in Section II, above.

V. CONCLUSION

For the foregoing reasons, CompTel urges the Commission to assure that its LEC price cap rules reflect underlying economic and technical realities and promote efficient pricing and investment. Specifically, the Commission should require a permanent rate relationship between DS3, DS1, and tandem-switched transport rates that reflects LEC multiplexing costs and copper/fiber deployment. In addition, it should place tandem switching and local switching in an overall switching basket and use the model developed in the ONA Pricing docket to develop tandem switching costs.

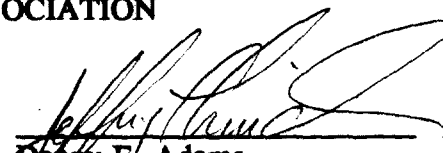
Finally, the Commission should not realign the price cap baskets by grouping potentially competitive services separately from non-competitive services.

Respectfully submitted,

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May 9, 1994

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of May, 1994, I caused copies of the foregoing "Comments of Competitive Telecommunications Association" to be mailed via first-class postage prepaid mail to the following:


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